



House of Representatives

General Assembly

File No. 606

February Session, 2016

House Bill No. 5474

House of Representatives, April 14, 2016

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING DNA TESTING FOR PERSONS ARRAIGNED FOR A SERIOUS FELONY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 54-102g of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *January 1, 2017, and applicable to arraignments on or after said date*):

4 (a) (1) Whenever any person is [arrested on or after October 1, 2011,
5 for the commission of] arraigned and the court finds there is probable
6 cause to believe such person committed a serious felony, and, prior to
7 such [arrest, has been convicted of a felony but] arraignment, has not
8 submitted to the taking of a blood or other biological sample for DNA
9 (deoxyribonucleic acid) analysis pursuant to this section, [the law
10 enforcement agency that arrested such person shall, as available
11 resources allow, require such person to submit] the prosecutorial
12 official shall request and the judge shall order that such person submit,
13 as required by the Court Support Services Division and as available
14 resources allow, to the taking of a blood or other biological sample for

15 DNA (deoxyribonucleic acid) analysis to determine identification
16 characteristics specific to the person. [If the law enforcement agency
17 requires such person to submit to the taking of such blood or other
18 biological sample, such] If such person is in the custody of the
19 Department of Correction, such person shall submit, as required by the
20 Department of Correction and as available resources allow, to the
21 taking of a blood or other biological sample for DNA
22 (deoxyribonucleic acid) analysis to determine identification
23 characteristics specific to the person.

24 (2) Such person shall submit to the taking of such sample [prior to
25 release from custody and] at such time and place as the [agency] Court
26 Support Services Division or the Department of Correction may
27 specify. For purposes of this subsection, "serious felony" means a
28 violation of subdivision (2) of subsection (a) of section 53-21, section
29 53a-54a, 53a-54b, 53a-54c, 53a-54d, 53a-55, 53a-55a, 53a-56, 53a-56a,
30 53a-56b, 53a-57, 53a-59, 53a-59a, 53a-59b, 53a-59c, 53a-60, 53a-60a, 53a-
31 60b, 53a-60c, 53a-70, 53a-70a, 53a-70b, 53a-70c, 53a-71, 53a-72a, 53a-72b,
32 53a-73a, 53a-92, 53a-92a, 53a-94, 53a-94a, 53a-95, 53a-100aa, 53a-101,
33 53a-102, 53a-102a, 53a-103, 53a-103a, 53a-111, 53a-112, 53a-134, 53a-135,
34 53a-136, 53a-167c, 53a-179b, 53a-179c or 53a-181c.

35 Sec. 2. Subdivision (1) of subsection (a) of section 54-102h of the
36 general statutes is repealed and the following is substituted in lieu
37 thereof (*Effective January 1, 2017*):

38 (a) (1) The collection of a blood or other biological sample from
39 persons required to submit to the taking of such sample pursuant to
40 subsection (a) of section 54-102g, as amended by this act, shall be the
41 responsibility of the [law enforcement agency that arrested such
42 person] Judicial Department and shall be taken at a time and place
43 specified by [that agency prior to such person's release from custody]
44 the Court Support Services Division or, if such person is in the custody
45 of the Department of Correction, the Department of Correction shall be
46 responsible for the taking of such sample.

47 Sec. 3. Section 54-102l of the general statutes is repealed and the

48 following is substituted in lieu thereof (*Effective January 1, 2017*):

49 (a) A DNA profile that has been included in the data bank pursuant
50 to sections 54-102g to 54-102k, inclusive, as amended by this act, shall
51 be expunged in the event that (1) the [criminal] conviction or the
52 finding of not guilty by reason of mental disease or defect on which the
53 authority for including the person's DNA profile was based has been
54 reversed and the case dismissed or such person has been granted an
55 absolute pardon for such conviction, or (2) if the DNA profile of a
56 person has been included in the data bank on account of the person
57 being (A) arrested as provided in subsection (a) of section 54-102g of
58 the general statutes, revised to January 1, 2015, or (B) arraigned and a
59 court's finding of probable cause in accordance with subsection (a) of
60 section 54-102g, as amended by this act, the charge has been dismissed
61 or nolle or the person has been acquitted of the charge.

62 (b) The Division of Scientific Services within the Department of
63 Emergency Services and Public Protection shall [purge] immediately
64 expunge all records and identifiable information in the data bank
65 pertaining to the person and destroy all samples from the person upon
66 receipt of a certified copy of (1) the court order reversing and
67 dismissing the conviction or the finding of not guilty by reason of
68 mental disease or defect or notification of an absolute pardon for such
69 conviction, or (2) the court order dismissing or nolling the charge or
70 acquitting the person of the charge.

71 (c) Any person whose records and identifiable information in the
72 data bank are required to be expunged and samples from such person
73 are required to be destroyed in accordance with the provisions of this
74 section may request confirmation of such expungement and
75 destruction of samples from the Division of Scientific Services within
76 the Department of Emergency Services and Public Protection. The
77 division shall confirm such expungement and destruction of samples
78 not later than thirty days after receipt of such request. If such person's
79 records and identifiable information and all samples from such person
80 have not been expunged or destroyed and the division is in possession

81 of a certified copy of the documentation described in subdivision (1) or
82 (2) of subsection (b) of this section, the division shall immediately
83 expunge such records and information and destroy such samples and
84 shall send confirmation to such person. If the division has not received
85 a certified copy of such documentation required by this section in
86 order to expunge such records and information and to destroy such
87 samples, the division shall instruct such person to obtain such copy
88 and to submit the copy to the division. If the division receives such
89 copy, the division shall immediately expunge such records and
90 information and destroy such samples and shall send confirmation to
91 such person.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2017, and applicable to arraignments on or after said date</i>	54-102g(a)
Sec. 2	<i>January 1, 2017</i>	54-102h(a)(1)
Sec. 3	<i>January 1, 2017</i>	54-102l

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Department of Emergency Services and Public Protection	GF - Cost	Less than \$100,000	Less than \$100,000
Criminal Justice, Div.; Correction, Dept.	GF - Cost	Approximately \$25,000 Combined	Approximately \$25,000 Combined

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill expands the list of offenses for which persons must submit to the taking of a blood or other biological sample for use in identification analysis.

Based on calendar year 2015 statistics, the bill is anticipated to result in the collection and testing of approximately 2,500 additional biological samples.

Such expanded sample collection duties are anticipated to result in a total combined cost of approximately \$25,000 in FY 17, and annually thereafter, to both the Departments of Criminal Justice and Correction. To perform the additionally required blood and biological analyses, the Department of Emergency Services and Public Protection is anticipated to incur additional costs of less than \$100,000 in FY 17, and annually thereafter. Such costs may be mitigated by available federal grants supporting the implementation of certain criminal justice policies.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**HB 5474*****AN ACT CONCERNING DNA TESTING FOR PERSONS
ARRAIGNED FOR A SERIOUS FELONY.*****SUMMARY:**

Current law generally requires people arrested for any of 39 serious felonies to provide a DNA sample before they are released from custody if they were previously convicted of a felony and have not already provided a DNA sample.

This bill:

1. requires the sample to be taken (a) after arraignment, and only if the court finds there is probable cause that the person committed a serious felony, and (b) regardless of whether the person has a prior felony conviction and
2. extends the requirement to eight additional crimes.

The bill requires the prosecutor to request that the sample be taken and judge to order the person to submit to the taking of the sample by the Judicial Branch's Court Support Services Division. It requires the Department of Correction (DOC) to collect samples from such individuals if they are already in DOC custody. Current law instead requires the arresting law enforcement agency to collect the sample.

As under current law, the requirement to collect samples applies only if the resources are available to collect the sample. By law, the Division of Scientific Services within the Department of Emergency Services and Public Protection (DESPP) must analyze the samples as available resources allow (CGS § 54-102g(h)).

The bill also expands the circumstances under which DESPP must

expunge a DNA profile from the DNA data bank and destroy the related samples by requiring this to occur if the person has been granted an absolute pardon. In all cases in which the law provides for expungement of records and destruction of the samples, the bill (1) requires the division to do so immediately after receiving the relevant court order or documentation and (2) creates a process for people to request confirmation of the expungement and sample destruction.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: January 1, 2017, and the provisions on submitting DNA samples after arraignment apply to arraignments on or after that date.

PROVIDING DNA SAMPLES AFTER ARRAIGNMENT

The bill's requirement for collecting DNA samples after arraignment applies to 47 felonies, including 39 covered by current law's requirement (see BACKGROUND) and the following eight additional crimes:

1. risk of injury to a minor by contact with intimate parts of a child under age 16;
2. 1st degree assault of a DOC employee;
3. assault of a pregnant woman resulting in termination of pregnancy;
4. aggravated sexual assault of a minor;
5. 2nd, 3rd, and 4th degree sexual assault; and
6. 3rd degree burglary.

EXPUNGEMENT OF DNA PROFILE AND SAMPLE DESTRUCTION

In addition to DNA samples taken after arrest as described above, the DNA data bank contains samples taken from convicted felons, convicted sex offenders, and offenders found not guilty of felonies or

sex offenses by reason of mental disease or defect.

Current law requires DESPP's Division of Scientific Services to expunge a DNA profile from the data bank if (1) a court reverses the conviction or finding of not guilty by reason of mental disease or defect that constituted grounds for collecting the sample and dismisses the case or (2) for a sample submitted by an arrestee, the charges were dismissed or nolle or the person was acquitted. The division must purge all of the person's records and identifiable information in the data bank and destroy the person's samples upon receipt of a certified copy of a court order setting forth these grounds.

The bill (1) extends these record expungement and sample destruction provisions to people who were granted an absolute pardon and (2) specifies that the current procedures for post-arrest samples also apply to post-arraignment samples. For all cases requiring this expungement and sample destruction, it requires the division to do so immediately upon receipt of the appropriate court order or pardon notification.

The bill allows any qualifying person to request confirmation from the division of the expungement and sample destruction. The division must provide this confirmation within 30 days of receiving the request. If the division has the required documentation but has not expunged the records or destroyed the samples, it must do so immediately and send confirmation.

If the division has not received the required documentation, it must instruct the person to obtain a copy and submit it. If the division then receives a copy of the documentation, the same requirements apply as specified above to immediately expunge the records and destroy the samples and send confirmation.

BACKGROUND

Serious Felonies

The following 39 crimes are deemed serious felonies for purposes of current law's post-arrest DNA sample requirement.

Table 1: Serious Felonies Under Current Law on DNA Samples

Murder	Murder with Special Circumstances	Felony Murder	Arson Murder
1 st and 2 nd Degree Manslaughter	1 st and 2 nd Degree Manslaughter with a Firearm	2 nd Degree Manslaughter with a Motor Vehicle	Misconduct with a Motor Vehicle
1 st and 2 nd Degree Assault	1 st and 2 nd Degree Assault of an Elderly, Blind, Disabled, or Pregnant Person or Person with Intellectual Disability	2 nd Degree Assault with a Firearm	2 nd Degree Assault With a Firearm of an Elderly, Blind, Disabled, or Pregnant Person or Person with Intellectual Disability
1 st Degree Sexual Assault	Aggravated 1 st Degree Sexual Assault	Sexual Assault in a Spousal or Cohabiting Relationship	3 rd Degree Sexual Assault with a Firearm
1 st and 2 nd Degree Kidnapping	1 st and 2 nd Degree Kidnapping with a Firearm	1 st Degree Unlawful Restraint	Home Invasion
1 st and 2 nd Degree Burglary	2 nd and 3 rd Degree Burglary with a Firearm	1 st and 2 nd Degree Arson	1 st , 2 nd , and 3 rd Degree Robbery
Assault of Public Safety, Emergency Medical, Public Transit, or Health Care Personnel	Prison Rioting	Inciting Prison Rioting	1 st Degree Stalking

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 30 Nay 12 (03/28/2016)